



The Attorney General of Texas

April 13, 1982

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Mr. Elof H. Soderberg
General Manager
Lower Colorado River Authority
P. O. Box 220
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Open Records Decision No. 312

Re: Availability under the
Open Records Act of documents
pertaining to LCRA's plans for
future lignite mining
activities

Dear Mr. Soderberg:

You have requested our decision under the Open Records Act, article 6252-17a, V.T.C.S., as to whether the Lower Colorado River Authority. (hereinafter LCRA) may:

withhold certain reports, studies, evaluations, etc., pertaining to geological information relating to certain properties held by LCRA and other properties to be acquired in the future by LCRA.

In your letter to this office, you state:

Briefly, LCRA has current plans to construct and operate lignite-fired electrical generating stations in the future because of the favorable economics involved to the consumer as opposed to natural gas or western coal fueled power plants. LCRA has actively pursued certain lignite leasing arrangements and, in conjunction with this activity, has instituted the necessary technical studies in order to properly evaluate on a geological basis properties currently under lease and other properties which LCRA might deem necessary to arrive at a feasible mine plan.

All of the studies, reports, evaluations, etc., sought by the requestor involve geological data that the LCRA does not desire to divulge at this time. The information contained in those documents is clearly geological information which, in the opinion of LCRA, falls within the scope of

protected information under section 3(a)(13) of the Texas Open Records Act. Furthermore, since much of the needed lignite property has not been fully acquired by LCRA, to divulge the information contained in these documents would clearly afford LCRA's competitors an unfair advantage in evaluating these properties (at LCRA's expense) and thereby jeopardize LCRA's ability to obtain these properties. Accordingly, LCRA is also of the opinion that much of these materials fall within the exception of section 3(a)(4) of the Texas Open Records Act.

Please be advised that much of the materials in question here will be filed with the Texas Railroad Commission at such time LCRA actively pursues a surface mining permit from that state agency. LCRA is fully aware that in that event, the geological materials excepted under section 3(a)(13) will then be subject to disclosure....

Section 3(a)(4) of the Open Records Act excepts from required public disclosure:

information which, if released, would give advantage to competitors or bidders.

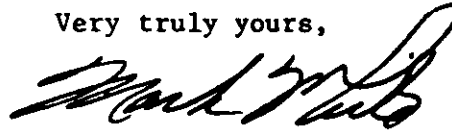
Section 3(a)(13) excepts:

geological and geophysical information and data including maps concerning wells, except information filed in connection with an application or proceeding before any agency.

This office has never before dealt with section 3(a)(13), and therefore has never had occasion to attempt to determine the precise reach of the section. In our opinion, however, the present situation does not call for such an analysis. We have examined the materials in question, and we are of the opinion that, with very few exceptions, the information contained therein would be characterized as "geological and geophysical information and data" under any reasonable reading of the section. The small portion of these materials which arguably does not technically qualify as geological or geophysical information is so inextricably intertwined with the remainder, moreover, that we believe that separation would not only be impractical, but that it would produce information which, devoid of any context, would be meaningless. We therefore conclude that you may withhold these materials, in their entirety, under section 3(a)(13).

Our conclusion regarding the application of section 3(a)(13) renders unnecessary a decision as to whether section 3(a)(4) or any other exception would also apply in this instance.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Mark White', with a stylized, cursive script.

MARK WHITE
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